

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

-against-

HARALD JOACHIM VAN DER GOLTZ,

Defendant,

UNICREDIT BANK AG,

Claimant-Third-Party
Petitioner.

Case No. S6 18 Cr. 693 (RMB)

**PETITION AND REQUEST FOR
ANCILLARY HEARING PURSUANT TO
21 U.S.C. § 853(n)**

Petitioner UniCredit Bank AG (“UniCredit”), by and through its undersigned counsel, alleges as follows:

1. On or about December 5, 2019, Defendant Harald Joachim Von der Goltz (“Defendant”) was charged in nine counts of a ten-count Superseding Indictment. The Indictment included a forfeiture allegation seeking forfeiture to the United States of all property which constitutes or is derived from proceeds traceable to the commission of the offense charged in Counts Two and Three of the Indictment.

2. The Indictment also included a substitute asset provision providing notice that if, as a result of Defendant’s actions or omissions forfeitable property is unable to be located or obtained, the United States may seek the forfeiture of any other property of Defendant.

3. Defendant pleaded guilty to Counts One through Nine of the Indictment on or about February 18, 2020.

4. On or about May 27, 2020, Defendant entered into a sentencing agreement with the United States in which he admitted the forfeiture allegation and agreed to forfeit, among other property, “any and all interest held by Revack Holdings Foundation and any entity in which Revack Holdings Foundation has an ownership interest . . . in Boston Capital Ventures III

LP, Boston Capital Ventures IV LP, Peninsula Investments Group II LP, BPEA Cayman Fund 2, and CoreCol LP, including any claim for future distributions.”

5. Upon information and belief, the United States seized funds held by Boston Capital Ventures V, LP (“BCV V”), as substitute assets.

6. On or about September 1, 2000, Bayerische Hypo-und Vereinsbank AG, the predecessor in interest to UniCredit, purchased an interest in \$7,050,000.00 in BCV V as a limited partner. A copy of the closing documents for BCV V, including the Certificate of Limited Partnership of the Fund, UniCredit’s Subscription Agreement, and the fund’s Limited Partnership Agreement, is attached hereto as Exhibit A.

7. The general partner of BCV V was Boston Capital Partners V, L.L.C., the managing member of which was Johan Von der Goltz. Upon information and belief, Johan Von der Goltz was an alias for Defendant.

8. At all times since September 1, 2000, UniCredit (or its predecessor in interest) has held a 19.9792% share of BCV V. This partnership share is reflected in UniCredit’s most recent Schedule K-1, dated May 24, 2020, a copy of which is attached hereto as Exhibit B. As a result of its partnership share, UniCredit is entitled to fully participate in all outstanding and future distributions by the fund on a pro rata basis.

9. On or about May 6, 2021, UniCredit received an email from John J. Shields on behalf of the General Partner stating that an outstanding distribution of \$70,993.34 is due and owing by BCV V to UniCredit.

10. At all relevant times, UniCredit had a legal right, title, or interest in all outstanding and future distributions from BCV V as a result of its partnership share.

11. At all relevant times, UniCredit’s right in its partnership share was vested in UniCredit. Defendant had no right or interest in UniCredit’s partnership share.

WHEREFORE, UniCredit requests, pursuant to 21 U.S.C. § 853(n) and Rule 32.2(c) of the Federal Rules of Criminal Procedure, that the Court:

- (a) conduct an ancillary proceeding to determine the extent of UniCredit's right, title, and interest in the forfeited property;
- (b) enter a final order amending the order of forfeiture in the above-captioned action to exclude UniCredit's property and returning to UniCredit its pro rata share of the BCV V funds seized by the government in an amount not less than \$70,993.34; and
- (c) grant such other legal and equitable relief as the Court deems just and proper.

Dated: New York, New York.
May 21, 2021

Respectfully submitted,
PERKINS COIE LLP

By: /s/ Arthur S. Greenspan

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Attorneys for UniCredit Bank AG

VERIFICATION

UniCredit Bank AG declares under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated: May 21, 2021

By: 

Andy Lupo
Managing Director

ANDY LUPO
Managing Director
UniCredit Bank AG